



UNITED SOUTH AND EASTERN TRIBES, INC.  
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February 28, 2006

Dr. Ralph Bryan, Senior Tribal Liaison  
Centers for Disease Control and Prevention  
c/o Indian Health Service  
5300 Homestead Rd. NE  
Albuquerque, NM 87110

Dear Dr. Bryan:

On behalf of the twenty-four federally recognized American Indian Tribal Governments that compose the United South and Eastern Tribes, Inc (USET), the attached comments are provided in response to the Notice of Proposed Rule Making (NPRM) regarding federal regulations for control of communicable diseases that was posted in the Federal Register on November 30, 2005.

USET Tribal Governments have always maintained that the government-to-government relationship exists between the Federal Government and federally recognized Tribal Governments. Therefore, the enclosed comments are made in accordance with this principle.

Should you have any questions regarding the comments please contact Ms. Dee Sabattus at (615) 872-7900 or [dsabattus@usetinc.org](mailto:dsabattus@usetinc.org).

Sincerely,

James T. Martin  
Executive Director

Enclosure (1)  
Cc: Brenda Shore, THPS Director  
Dee Sabattus, Health Policy Analyst  
File

*"Because there is strength in Unity"*



**UNITED SOUTH AND EASTERN TRIBES  
IN RESPONSE TO CENTERS FOR DISEASE  
CONTROL AND PREVENTION (CDC)  
42 CFR PARTS 70 AND 71; CONTROL OF COMMUNICABLE  
DISEASES**

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## **INTRODUCTION**

The following comments are provided on behalf of the twenty-four federally recognized American Indian Tribal Governments that compose the United South & Eastern Tribes, Inc (USET). The USET membership consists of Direct Service, Contract and Compact Tribes. The tribes are located in twelve different States from Maine continuing south to Florida then across to eastern Texas.

The USET Tribal Governments have always maintained that the government-to-government relationship exists between the Federal Government and federally recognized Tribal Governments. Therefore, the following comments are made in accordance with this principle.

## **SUMMARY**

Section 70.1—Scope and Definitions: This section outlines the scope of the provisions and adds or modifies a number of relevant definitions, such as *“Indian Country”* and *“Indian Tribe.”*

The proposed regulations define Indian Country as:

- (i) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;
- (ii) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and
- (iii) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

The proposed regulations define Indian Tribe as:

Any Indian Tribe, band, nation or other organized group or community, including any Alaska Native village or regional village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

**USET concurs with the definitions with one minor change to the definition of Indian Tribe. In the definition for Indian Tribe; incorporate reference to 25 U.S.C. Sec 450b at the end of the definition.**

Section 70.24—Requests by State (including political subdivisions thereof), possession or Tribal health authorities The proposed regulations state:

- (a) The health authority of a State or Indian Tribe may request that the Director take public health measures in accordance with this part and whatever further public health measures that the Director, in consultation with the health authority, deems necessary to prevent the introduction, transmission, or spread of communicable diseases.
- (b) The health authority of a State or Indian Tribe may request that the Director issue a provisional quarantine order or a quarantine order. Such requests shall set forth the health authority's reasonable belief that the person or group of persons to be quarantined or placed under provisional quarantine are in the qualifying stage of a disease that is subject to quarantine regulations.

Currently, the regulations do not define "tribal health authority". USET is under the assumption that with no definition any tribal government or tribal organization with the authority to act on behalf of a tribe regarding health matters would suffice. Please clarify and/or define tribal health authority.

Section 70.25—Measures in the event of inadequate local control Regulations state:

In addition to the public health measures in this part, whenever the Director, with the concurrence of the Secretary, determines that the measures taken by the health authorities of any State or Indian Tribe are insufficient to prevent the spread of any communicable disease from one State into another, the Director may take such measures to prevent such spread of disease as the Director deems necessary.

While in this section a determination of inadequate local control does not require the concurrence of the IHS Director, the Preamble to this notice includes a section titled *Summary of Proposed Changes to 42 CFR 70* that states "to the extent practicable, when taking actions in Indian Country the CDC Director will consult with the IHS Director and affected Indian Tribe(s) prior to such action."

USET presumes that the Preamble to this notice will be included with the proposed regulation however, in the event that it is not, USET would like the specific language above included in the proposed regulations.

In addition, the regulations do not define "measures". USET would like "measures" to be defined within the regulations.

Section 70.27—Indian Country Regulations state:

- (a) With the concurrence of the Director of IHS and after consulting with the affected Tribe(s), the Director may impose the following public health measures with respect to persons in Indian Country without making a finding that such person or group of persons are moving or about to move from State to State or are a probable source of infection to persons who will be moving from State to State:
  - (1) Provisional quarantine;

- (2) Quarantine;
  - (3) Medical examination and monitoring
- (b) Any provisional quarantine, quarantine or medical examination and monitoring must take place in a hospital or other place for treatment, but any person who is subject to such provisional quarantine or quarantine may refuse examination, medical monitoring, medical treatment, prophylaxis, or vaccination, but remains subject to provisional quarantine and quarantine.
- (c) Any person who is the subject of a provisional quarantine order, quarantine order authorized by paragraph (a) of this section has the same rights as provided for provisional quarantine or quarantine elsewhere in this part.
- (d) After consulting with the affected Tribe(s), the Director may authorize the agents and employees of any State to enter Indian Country for the sole purpose of enforcing federal quarantine rules and regulations if the Director of IHS concurs (such concurrence being subject to any rules and regulations that the Director of IHS may prescribe).

**USET sees no problem with the procedures as stated so long as consultation requirements with the affected Tribe(s) and the Director of IHS are fulfilled.**

#### **BROAD COMMENTS**

There are several grammatical errors and inconsistencies throughout the proposed regulation.

**USET recommends the regulation undergo close review to utilize consistent and correct grammatical language throughout the document.**

#### **CONCLUSION**

USET appreciates the opportunity to submit comments regarding the proposed regulation on behalf of twenty-four federally recognized Tribal Governments. It is evident that CDC is supportive of Tribal interest, however, as pointed out in the recommendations clarification is needed prior to finalization of the regulations.